IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 12927 of 2003(L)

PETITIONER:

K.M.AFSA, D/O.ABDULLA, RESIDING AT
THAYATHUPARAPPA, KASARGOD, TALUK.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT OF KERALA, TRIVANDRUM.

2. SECRETARY TO GOVERNMENT REVENUE DEPARTMENT, SECRETARIAT, TRIVANDRUM.

3. DISTRICT COLLECTOR, KASARGOD.

4. TAHSILDAR (R.R) KASARGOD.

5. VILLAGE OFFICER, DELAMPADY VILLAGE, P.O., PARAPPA, KASARGOD.

BY GOVERNMENT PLEADER SMT. R. BINDU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 21957 OF 2003 IN OP 12927 OF 2003

DISMISSED

14.3.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF ORDER DATED 16.7.2001 ISSUED BY THIRD RESPONDENT TO THE PETITIONER'S COUNSEL

EXT.P2 TRUE COPY OF APPLICATION DATED 8.8.2001 BEFORE THE GOVT.

EXT.P3 TRUE COPY OF JUDGMENT IN OP 26578/01 DATED 7.12.2001

EXT.P4 PHOTOSTAT COPY OF ORDER G.O.(MS) NO. 394/2002/RD DATED 31.12.2002

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 12927 OF 2003

Dated this the 14th day of March, 2007

JUDGMENT

Heard counsel for the petitioner and Govt. Pleader. Petitioner is challenging Ext.P4 order whereunder the Government has declared the transfer of property effected by the petitioner's deceased husband before his death as null and void. When the property having an extent of 1.25 acres of land was transferred to the petitioner on 9.7.1999 petitioner's husband was in debt of Rs. 2,25,591/- due to forest department. The transfer is invalid by virtue of Section 53 of the TP Act because deceased was well aware of his liability when he transferred the property. Further, revenue recovery notice was also served on him before effecting transfer and hence transfer is hit by Section 44 of the RR Act. In the circumstances, Ext.P4 is upheld. However, I feel one more opportunity can be given to the petitioner to clear the arrears of Rs. 2,25,591/- without any interest whatsoever till 30.4.2007. If the petitioner clears the arrears as above, then the revenue sale in favour of the Government and confirmation of sale will

stand cancelled and possession will be handed over to the petitioner by the fourth respondent on receipt of payment. However, if payment is not made by 30.4.2007 then respondents are free to appropriate the property for the purpose of the Govt.

O.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge